

acceptable level of quality as it was providing to itself, its affiliates and subsidiaries. The RIDPUC indicated that it agreed with VZ-RI's assertions and recommended a finding of compliance with Checklist Item 10 by the RIPUC.<sup>627</sup>

## **5. RIPUC Findings and Recommendation**

We find VZ-RI to be in compliance with the requirements of Checklist Item 10. As of May 2001, two CLECs were accessing VZ-RI's signaling network. As of July 2001, VZ-RI had processed 25.8 million billing verification queries. From January through June 2001, Verizon had processed approximately 138.4 million queries to its CNAM for other carriers throughout New England, without any complaints from CLECs in Rhode Island.

From January 1 through September 30, 2001, Verizon processed 159.8 million Toll Free Database queries for Rhode Island. VZ-RI processes CNAM and Toll Free Database queries in the same way for CLECs and VZ-RI. In addition, VZ-RI provides nondiscriminatory access to its LNP database. As of September 2001, one CLEC uses VZ-RI's LNP database. Finally, access to VZ-RI's SMS is provided to CLECs on a nondiscriminatory basis, as it is administered by a neutral third party to all carriers, including VZ-RI. Therefore, based on the evidence before us, we find that VZ-RI provides nondiscriminatory access to its databases and associated signaling necessary for call routing and completion, and we recommend the FCC find VZ-RI to be in compliance with the requirements of this checklist item.

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<sup>627</sup> RIDPUC's Exhibit 1, Appendix A, pp. 9-10.

## **K. CHECKLIST ITEM 11 – LOCAL NUMBER PORTABILITY**

### **1. Applicable Law**

Section 271 (c)(2)(B)(xi) of the Act requires VZ-RI to be in compliance with the number portability regulations adopted by the FCC pursuant to section 251 of the Act. Specifically, section 251(b)(2) requires all LECs “to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the [FCC].”<sup>628</sup> Section 251(e)(2) requires that “[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the [FCC].”<sup>629</sup>

In reviewing VZ-NY’s Section 271 application, the FCC reiterated specific requirements associated with providing number portability, including the requirements that LECs offer interim number portability “to the extent technically feasible” and gradually replace interim number portability with permanent number portability. The FCC also noted that it has established guidelines for states to follow in mandating a competitively neutral cost-recovery mechanism for interim number portability.<sup>630</sup>

### **2. VZ-RI’s Position**

VZ-RI argued that it meets this checklist item by offering local number portability (“LNP”) throughout Rhode Island in the same manner as LNP is provided by Verizon in Massachusetts and New York. LNP arrangements, provided through interconnection

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<sup>628</sup> 47 U.S.C. § 271(b)(2).

<sup>629</sup> 47 U.S.C. § 271(e)(2).

<sup>630</sup> New York Order, ¶ 368.

agreements, allow CLECs to serve end users formerly served by VZ-RI, without requiring those end users to change their existing telephone numbers.<sup>631</sup>

VZ-RI reported that as of May 31, 2001, that it was porting approximately 49,600 telephone numbers using LNP arrangements for 10 CLECs.<sup>632</sup> This number increased to 63,400 by August 2001.<sup>633</sup> VZ-RI also reported that it was provisioning LNP on a timely basis. In each month from March through August 2001, VZ-RI met the due date on 98.95% to 99.92% of “LNP Only” orders.<sup>634</sup>

VZ-RI noted that it continues to provide interim number portability where the arrangement is already in place. However, because VZ-RI has deployed LNP in all of its switches, VZ-RI is no longer accepting new orders for interim number portability arrangements.<sup>635</sup>

### **3. CLEC Comments**

No CLEC filed any declarations or made comments at the hearings disputing VZ-RI’s performance in providing the required access under Checklist Item 11.

### **4. RIDPUC Comments**

The RIDPUC noted that as of May 2001, VZ-RI ported approximately 49,600 telephone numbers for 10 competing carriers. Furthermore, the RIDPUC noted that VZ-

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<sup>631</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 367.

<sup>632</sup> *Id.* at ¶ 368.

<sup>633</sup> Tr. 10/12/01, p. 176.

<sup>634</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 368; Tr. 10/12/01, p. 176. LNP Only orders are orders for number portability that are not associated with the purchase of UNE loops. An LNP Only order would be used by a CLEC that provides not only its own switching, but also its own loop to the end-user premises (such as a cable company or other full facilities-based CLEC) to move the end-user’s service to the CLEC’s switch without requiring the end user to change its number. The provision of LNP in connection with the “hot cut” of an existing VZ-RI end-user’s loop from VZ-RI service to CLEC service as a UNE loop is discussed with UNE loops in Checklist Item 4. Verizon RI 271 Filing – Checklist Declaration, ¶ 368.

<sup>635</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 369. VZ-RI provided testimony that it is still providing interim number portability pursuant to an interconnection agreement on approximately 300 telephone numbers for one CLEC. The one remaining CLEC with existing interim arrangements will be

RI stated that it provisions LNP in a timely matter that allows CLECs a meaningful opportunity to compete. Finally, the RIDPUC indicated that it agreed with VZ-RI's assertions and recommended a finding of compliance with Checklist Item 11 by the RIPUC.<sup>636</sup>

## **5. RIPUC Findings and Recommendation**

We find that VZ-RI has shown it is in compliance with the requirements of Checklist Item 11. Section 153 (30) of the Act defines number portability as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”<sup>637</sup> VZ-RI has shown that as of August 31, 2001, VZ-RI was porting approximately 63,400 telephone numbers using LNP arrangements for 11 CLECs. VZ-RI has also shown that it has met its provisioning deadlines over the course of 2001 over 98.95% of the time. Accordingly, VZ-RI has met the PAP metric PR-4-07 every month from March through August 2001. Therefore, we find that VZ-RI is providing local number portability in compliance with the requirements of the Act and FCC regulations. We recommend the FCC find that VZ-RI is in compliance with the requirements of this checklist item.

## **L. CHECKLIST ITEM 12 – LOCAL DIALING PARITY**

### **1. Applicable Law**

Section 271(c)(2)(B)(xii) of the Act requires VZ-RI to provide “nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to

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transitioned when VZ-RI receives a commitment from the CLEC regarding timeframes to complete the transition. *Id.*; Tr. 10/12/01, pp. 177-78.

<sup>636</sup> RIDPUC's Exhibit 1, Appendix A, p. 10-11.

<sup>637</sup> 47 U.S.C. § 271(c)(2)(B)(xi). See also, 47 C.F.R. § 52.21 (k).

implement local dialing parity in accordance with the requirements of Section 251(b)(3)” of the Act.<sup>638</sup>

“Dialing parity” is defined in the Act to mean that a CLEC that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer’s designation from among 2 or more telecommunications services providers (including such local exchange carrier).<sup>639</sup>

With regard to local dialing parity, Section 251(b)(3) requires VZ-RI “to provide dialing parity to competing providers of telephone exchange service and . . . to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.”<sup>640</sup>

## **2. VZ-RI’s Position**

VZ-RI asserted that it meets this checklist item by providing local dialing parity to CLECs that either purchase unbundled local switching from VZ-RI or resell VZ-RI’s retail service. In addition, VZ-RI stated that it provides access to the information and arrangements necessary for CLECs with their own switches to implement local dialing parity. VZ-RI relied on the assertion that its processes are the same as those in place in Massachusetts and New York.<sup>641</sup> There is no additional charge for this service.<sup>642</sup>

Local dialing parity allows CLEC customers to make local calls to the following, without dialing any extra digits or access codes, and without any unreasonable dialing delays: (1) a VZ-RI customer; (2) another customer served by the same CLEC or by another CLEC interconnected with VZ-RI; (3) directory assistance services; and (4)

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<sup>638</sup> 47 U.S.C. § 271(c)(2)(B)(xii).

<sup>639</sup> 47 U.S.C. § 153(39).

<sup>640</sup> 47 U.S.C. § 251(b)(3).

<sup>641</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 371.

<sup>642</sup> *Id.* at ¶ 374.

operator call completion services. Local dialing parity also allows VZ-RI customers to make local calls to CLEC customers without dialing extra digits or access codes, and without any unreasonable dialing delays.<sup>643</sup>

VZ-RI stated that customers of CLECs, making local calls, are not required to dial more digits than a VZ-RI end user to complete a similar call, unless such a requirement is imposed by the CLEC. In addition, VZ-RI asserted that CLEC's local service customers do not experience post-dialing delay, call completion rate, or transmission quality that is inferior to that experienced by end users of VZ-RI. VZ-RI's network does not distinguish between comparable calls by end users of VZ-RI and resellers, or between comparable calls that originate on VZ-RI's network and the network of a CLEC. Once a local call passes from a CLEC's network to VZ-RI's network, it is from that point on treated the same as a similarly-routed call originating from any other service provider's network, including VZ-RI's.<sup>644</sup>

VZ-RI stated that from January through May 2001, it exchanged approximately 1.4 billion minutes of traffic with CLECs over local interconnection trunks on calls completed with dialing parity. According to VZ-RI, this number increased to 1.9 billion minutes by July 31, 2001. VZ-RI maintained that all of the local calls handled under these arrangements were completed with local dialing parity.<sup>645</sup>

### **3. CLEC Comments**

No CLEC filed any declarations or made any comments at the hearings disputing VZ-RI's performance in providing the required access under Checklist Item 12.

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<sup>643</sup> Id. at ¶ 373.

<sup>644</sup> Id. at ¶ 372.

<sup>645</sup> Id. at ¶ 375.

#### **4. RIDPUC Comments**

The RIDPUC noted that between January and May 2001, VZ-RI reported an exchange of 1.4 billion minutes of traffic over local interconnection trunks. The RIDPUC indicated that VZ-RI demonstrated that it was providing competing carriers with local dialing parity and recommended a finding of compliance with Checklist Item 12 by the RIPUC.<sup>646</sup>

#### **5. RIPUC Findings and Recommendation**

We find VZ-RI to be in compliance with the requirements of Checklist Item 12. VZ-RI has shown that CLEC customers do not have to dial more digits to complete a call than a VZ-RI customer would have to dial to complete the same call. This service is provided at no additional charge to a CLEC or its customers. VZ-RI has reported an exchange of approximately 1.9 billion minutes of traffic with CLECs over local interconnection trunks from January through July 31, 2001. The evidence shows that VZ-RI is providing nondiscriminatory access for competing carriers to provide local dialing parity in compliance with the Act. Accordingly, we recommend the FCC find VZ-RI to be in compliance with the requirements of this checklist item.

### **M. CHECKLIST ITEM 13 – RECIPROCAL COMPENSATION**

#### **1. Applicable Law**

Section 271(c)(2)(B)(xiii) of the Act requires that VZ-RI's access and interconnection arrangements with CLECs provide for "[r]eciprocal compensation in accordance with the requirements of Section 252(d)(2)."<sup>647</sup> Section 252(d)(2) addresses the issue of just and reasonable pricing standards for reciprocal compensation, stating:

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<sup>646</sup> RIDPUC's Exhibit 1, Appendix A, p. 11.

<sup>647</sup> 47 U.S.C. § 271(c)(2)(B)(xiii).

...a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.<sup>648</sup>

On April 27, 2001, the FCC issued order FCC 01-131, Order on Remand and Report and Order (“Reciprocal Compensation Order”). In the Reciprocal Compensation Order, the FCC concluded that “Congress, through section [47 U.S.C. § 251(g)], expressly limited the reach of section 251(b) to exclude ISP-bound traffic.”<sup>649</sup> Therefore, the FCC held that “ISP-bound traffic is not subject to the reciprocal compensation obligations of section 251(b)(5).”<sup>650</sup> In the same Order, the FCC indicating that a ratio exceeding 3:1 of terminating to originating traffic constituted a rebuttable presumption that the excess is ISP-bound traffic not subject to reciprocal compensation.<sup>651</sup> Furthermore, the FCC outlined an interim intercarrier compensation scheme to be used until the FCC has resolved issues raised in CC Docket No. 01-92 (Developing a Unified Compensation Regime, Notice of Proposed Rulemaking).<sup>652</sup> Finally, the FCC noted that “because [the FCC was now exercising its] authority under section 201 to determine the appropriate intercarrier compensation for ISP-bound traffic...state commissions will no longer have authority to address this issue.”<sup>653</sup>

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<sup>648</sup> 47 U.S.C. § 252(d)(2)(A).

<sup>649</sup> In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996: Intercarrier Compensation for ISP-Bound Traffic, Order on Remand and Report and Order, FCC 01-131, ¶ 3, CC Docket Nos. 96-98, 99-68 (rel. April 27, 2001) (“Reciprocal Compensation Order”).

<sup>650</sup> Id.

<sup>651</sup> Id. at ¶ 79.

<sup>652</sup> Id. at ¶¶ 77-82. This compensation scheme was set up to go into effect if an interconnection agreement contained a change of law provision or upon negotiation of expired agreements. Id.

<sup>653</sup> Id. at ¶ 82.



## 2. VZ-RI's Position

VZ-RI asserted that it satisfies the requirements for this checklist item in Rhode Island in the same manner as it does in Massachusetts and New York. VZ-RI pointed out that it offers reciprocal compensation arrangements through its interconnection agreements with other carriers, including Commercial Mobile Radio Service ("CMRS") providers. Presently in Rhode Island, VZ-RI reports being a party to reciprocal compensation agreements with 53 facilities-based carriers, 6 cellular services providers, and 6 paging carriers.<sup>654</sup> As of October 12, 2001, VZ-RI reported paying reciprocal compensation to 13 CLECs, 6 broadband CMRS providers, and 6 paging companies, pursuant to approved interconnection agreements.<sup>655</sup>

VZ-RI stated that it has complied with all rulings of the RIPUC that have addressed the reciprocal compensation terms of interconnection agreements.<sup>656</sup> In addition, VZ-RI indicated that it has implemented provisions of the FCC's Reciprocal Compensation Order.<sup>657</sup> To the extent that VZ-RI is exchanging Internet-bound traffic and traffic properly subject to reciprocal compensation under the Act, VZ-RI asserted that it will apply the presumption that any such traffic that exceeds a 3:1 ratio of terminating to originating is internet-bound traffic not subject to reciprocal compensation.<sup>658</sup>

Therefore, for all of these reasons, VZ-RI argued that the RIPUC should find that VZ-RI had satisfied Checklist Item 13.

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<sup>654</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 378; Tr. 10/12/01, p. 149.

<sup>655</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 380; Tr. 10/12/01, p. 179.

<sup>656</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 379.

<sup>657</sup> Id. See Reciprocal Compensation Order.

<sup>658</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 379; Tr. 10/12/01, pp. 180-83.

### **3. CLEC Comments**

No CLEC filed declarations or made comments in the hearings disputing VZ-Ri's performance in providing the required access under Checklist Item 13.

### **4. RIDPUC Comments**

The RIDPUC noted that VZ-Ri presumed that traffic exceeding a 3:1 terminating to original ratio is ISP-bound traffic and, as such, is not subject to reciprocal compensation. The RIDPUC agreed with the assertions of VZ-Ri and recommended approval of Checklist Item 13.<sup>659</sup>

### **5. RIPUC Findings and Recommendation**

We find VZ-Ri to be in compliance with the requirements of Checklist Item 13. VZ-Ri has indicated that it is paying reciprocal compensation to 53 CLECs, 6 broadband providers and 6 paging companies. VZ-Ri has shown that it is applying a 3:1 ratio of terminating to originating traffic in order to identify that traffic which is ISP-bound in nature. In addition, no CLEC challenged VZ-Ri's compliance with either this checklist item or the FCC's Reciprocal Compensation Order. Therefore, we recommend the FCC find VZ-Ri to be in compliance with the requirements of this checklist item.

## **N. CHECKLIST ITEM 14 – RESALE**

### **1. Applicable Law**

Section 271 (c)(2)(B)(xiv) of the Act requires VZ-Ri to make "telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3)."<sup>660</sup> According to Section 251(c)(4)(A), ILECs are required "to offer for resale at wholesale rates any telecommunications service that the

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<sup>659</sup> RIDPUC Exhibit 1, Appendix A, pp. 11-12.

<sup>660</sup> 47 U.S.C. § 271(c)(2)(B)(xiv).

carrier provides at retail to subscribers who are not telecommunications carriers.”<sup>661</sup> Section 251(c)(4)(B) prohibits the imposition of any unreasonable or discriminatory conditions or limitations on resale “except that a State commission may, consistent with regulations prescribed by the Commission under this section, prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers.”<sup>662</sup>

Section 252(d)(3) states that “[f]or purposes of section 251(c)(4), a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunication service requested, excluding a portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.”<sup>663</sup> The VZ-RI resale and retail tariff primarily involved is PUC RI No. 22.

## **2. VZ-RI’s Position**

It is VZ-RI’s position that the FCC found that Verizon satisfied the requirements of this checklist item in Massachusetts and New York, and likewise satisfies the requirements in Rhode Island.

### **A. Resold Services Generally**

VZ-RI asserted that it makes its retail telecommunications services available for resale in Rhode Island pursuant to interconnection agreements and its Resale Tariff, PUC RI No. 22, and that it offers for resale, at wholesale rates, all of the telecommunications services that VZ-RI provides at retail to subscribers that are not telecommunications

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<sup>661</sup> 47 U.S.C. § 251(c)(4)(A).

<sup>662</sup> 47 U.S.C. § 251(c)(4)(B).

carriers.<sup>664</sup> The terms and conditions of VZ-RI's Resale Tariff were approved by the RIPUC in Docket No. 2518.<sup>665</sup> Among the terms are the wholesale discounts from retail rates set by the RIPUC. The discounts are 17.87% from retail residential rates and 14.26% from retail business rates if VZ-RI provides operator and directory assistance services.<sup>666</sup> If the reseller elects to provide its own operator and directory assistance services, the wholesale discounts from retail rates are 18.82% for residence and 16.38% for business.<sup>667</sup>

VZ-RI also stated that it plans to make DSL available for resale over resold voice lines in Rhode Island. According to VZ-RI, the service would be made available through a federal tariff that VZ-RI expected to file in early November. According to VZ-RI, the terms and conditions for this service in Rhode Island will be the same as those offered in Connecticut and Pennsylvania except that the Rhode Island offering will not be subject to any cap on the number of orders VZ-RI will commit to process each day.<sup>668</sup>

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<sup>663</sup> 47 U.S.C. § 252(d)(3).

<sup>664</sup> Verizon RI 271 Filing – Checklist Declaration, ¶¶ 383, 384. As of June 1, 2001, the RIPUC approved 37 resale-only agreements and 106 full interconnection agreements, 97 of which were still in effect and which include resale provisions. VZ-RI's Response to Record Request No. 15.

<sup>665</sup> See RIPUC Report and Order 15911 (issued March 4, 1999).

<sup>666</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 389.

<sup>667</sup> *Id.* See PUC RI No. 22 Tariff, Section 10.5.1. As a condition of the FCC's approval of the merger between Bell Atlantic and GTE, VZ-RI offers a special promotional discount of 32%, rather than the Commission-ordered discount rate, on resold residence lines ordered after the Merger Close Date and during an "Offering Window." See FCC's Order in CC Docket No. 98-184 and ¶¶ 36-38 of associated Appendix D; Verizon RI 271 Filing – Checklist Declaration, ¶ 390.

<sup>668</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 383; Verizon's Post-Hearing Brief, p. 116. The RIPUC has requested that when VZ-RI files the aforementioned tariff with the FCC, that it also file a letter with the RIPUC along with a copy of the tariff filed with the FCC.

## **B. Resale Performance**

VZ-RI represented that it was provisioning resale service in the commercial volumes demanded by CLECs. As of July 2001, VZ-RI reported that it was providing approximately 25,957 resold lines to Resellers.<sup>669</sup>

VZ-RI maintained that its C2C reports for March, April, and May 2001 showed that the Company is providing resold services at parity with VZ-RI's retail operations. VZ-RI also provided testimony at the October 11, 2001 hearing regarding its C2C Performance Reports for June, July and August 2001. VZ-RI also presented testimony, both in its Checklist Declarations and at the hearing, concerning its apparent questionable performance results for certain resale metrics.<sup>670</sup>

The resale measurements are divided into four major categories: 1) Pre-Ordering, 2) Ordering, 3) Provisioning, and 4) Maintenance. VZ-RI argued that it generally provisions resale services at parity with retail. VZ-RI stated that it met the parity performance standards for Pre-Ordering.

VZ-RI pointed out that it met the vast majority of the Ordering performance standards for March through August 2001. One metric that VZ-RI was consistently unable to achieve was OR 5-03 (% Flow Through – Achieved – POTS & Specials). Ms. Canny testified that even here, however, performance from April through July 2001 was above 90% and in August 2001, VZ-RI met the 95% benchmark.<sup>671</sup> VZ-RI also noted that this metric was not being achieved in New York or Massachusetts at the time the FCC approved those § 271 applications, and was only achieved by VZ-NY for the first

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<sup>669</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 385; Tr. 10/11/01, at 41.

<sup>670</sup> Verizon RI 271 Filing – Checklist Declaration, ¶¶ 399-402; Tr. 10/11/01, pp. 27-53. See infra notes 224-237 and accompanying text.

time this summer.<sup>672</sup> Ms. Canny explained that CLEC orders that do not flow through must be processed manually by Verizon; however, Verizon is not relieved of its obligation to confirm orders and meet due dates.<sup>673</sup> Verizon noted that it has taken various steps to improve the flow through of CLEC orders and that those efforts are producing results in Rhode Island as evidenced by the improved flow through results for August 2001.<sup>674</sup>

VZ-RI represented that it met the majority of most provisioning metrics: Average Delay Days – Total for POTS (PR-4-02) and % Completed within 5 Days, 1 to 5 lines – No Dispatch and Dispatch (PR-3-08 and PR-3-09).<sup>675</sup> Where there were mixed results, according to VZ-RI, two issues accounted for the seemingly better retail results for the provisioning metrics in question. First, comparisons between the CLEC and Verizon retail mix of orders generally showed that a greater percentage of CLEC orders were for business customers that tend to be more complex and, therefore, more time-consuming to provision than residential customer orders.<sup>676</sup> VZ-RI's retail orders, on the other hand, are typically for residential customers who tend to order features that could be provisioned in one day.<sup>677</sup> Second, resellers typically request provisioning intervals that are longer than the intervals provided to retail customers.<sup>678</sup>

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<sup>671</sup> Tr. 10/11/01, at 30; VZ-RI's Response to Record Request No. 1, Attachment 5 update, p. 11. VZ-RI's witness also testified that during the months of March through July 2001, there was steady improvement in VZ-RI's performance.

<sup>672</sup> Tr. 10/11/01, at 30.

<sup>673</sup> *Id.*

<sup>674</sup> Verizon's Post Hearing Brief, p. 117.

<sup>675</sup> VZ-RI's Response to Record Request No. 1, Attachment 5 update, p. 11. VZ-RI also testified that the during the months of June, July and August 2001, the measurement for PR 3-09 was 98.65 percent for VZ-RI retail and 98.21 percent for VZ-RI wholesale. Therefore, while out of parity, the percentage was very close. VZ-RI theorized that the metric may not be measuring the right standard if such close percentages could still produce an out-of-parity result. Tr. 10/11/01, pp. 32-33.

<sup>676</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 401; Tr. 10/11/01, pp. 31-32, 51.

<sup>677</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 401; Tr. 10/11/01, pp. 32, 51.

<sup>678</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 401; Tr. 10/11/01, pp. 32, 51.

VZ-RI stated that its repair and maintenance performance for resold services is generally at parity with its retail performance, as demonstrated by the C2C results for the March through August 2001 period.<sup>679</sup> VZ-RI noted that it met the parity performance standard for almost every PAP metric from March through May, providing better service to resellers than to its own retail customers in important measures such as Network Trouble Report Rate (MR 2-02), Missed Repair Appointments (MR-3-01 and MR-3-02), and % Out of Service > 24 Hours (MR-4-08) for POTS Loops.<sup>680</sup> While the Mean Time to Repair (MR-4-01) for Specials is somewhat longer for resellers than for retail in the three-month average, a VZ-RI witness explained that the results were impacted by a single ticket in March that skewed the results for that month.<sup>681</sup> VZ-RI pointed out that from June through August, VZ-RI's repair and maintenance performance was virtually flawless; during the three-month period only one metric out of the eleven measured each month failed.<sup>682</sup> VZ-RI argued that these performance results clearly demonstrate that it provides repair and maintenance services to Resellers in Rhode Island in substantially the same time and manner as it provides service to retail customers.<sup>683</sup>

### **3. CLEC Comments**

No CLEC filed any Declarations or comments regarding Checklist Item 14. However, at the hearing, WorldCom posed several questions regarding resale of DSL over resold voice lines.<sup>684</sup> In response to queries by WorldCom and the RIPUC, VZ-RI indicated that it would make resale of DSL available in Rhode Island after filing an

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<sup>679</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 402; Verizon's Post-Hearing Brief, p. 119; Verizon's Response to Record Request No. 1, Attachment 5 update, p. 12.

<sup>680</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 402.

<sup>681</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 402; Tr. 10/11/01, pp. 51-2.

<sup>682</sup> VZ-RI's Response to Record Request No. 1, Attachment 5 update, p. 12.

<sup>683</sup> Verizon's Post-Hearing Brief, p. 119.

<sup>684</sup> Tr. 10/11/01, pp. 57-62.

amendment to VADI's federal tariff regarding this issue. VZ-RI explained that the terms and conditions would be the same as those currently in place in Connecticut and Pennsylvania, though without the cap on the number of orders that could be processed each day. VZ-RI also noted that "Verizon's federally tariffed retail DSL service offering is currently available to CLECs for resale at a wholesale discount."<sup>685</sup>

#### **4. RIDPUC Comments**

The RIDPUC noted that VZ-RI claimed to provision resold services in substantially the same time and manner and at an acceptable level of quality as it provides to itself. The RIDPUC agreed that VZ-RI was demonstrating that it was providing resale service to its competitors in a timely manner. The RIDPUC recommended the RIPUC make a finding of compliance with Checklist Item 14.<sup>686</sup>

#### **5. RIPUC Findings and Recommendation**

We find VZ-RI to be in compliance with the requirements of Checklist Item 14. We note that VZ-RI provides retail telecommunications for resale at wholesale discounts pursuant to interconnections agreement and tariff. Also, VZ-RI stated it would shortly file an amendment to its federal tariff to make DSL available for resale upon similar terms and conditions as in Pennsylvania and Connecticut. It is our understanding that VZ-RI has made this filing with the FCC.<sup>687</sup> In addition, we point out as of July 2001, VZ-RI reported it provides approximately 25,957 resold lines to Resellers.

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<sup>685</sup> VZ-RI's Response to Record Request No. 10.

<sup>686</sup> RIDPUC's Exhibit 1, Appendix A, pp. 12-13; Tr. 10/11/01, p. 220. In response to questions from the RIPUC, the RIDPUC's expert agreed that allowing a reseller to resell DSL would further competition in Rhode Island. However, in response to RIPUC questions regarding the resale of voicemail, the RIDPUC's expert testified that it was his position that voicemail, as an unregulated service, should be provided by a CLEC, rather than by the ILEC for resale. Tr. 10/11/01, pp. 221-23.

<sup>687</sup> On or about December 7, 2001, VZ-RI filed a copy of Verizon FCC Tariff No. 1 which provides for DSL Over Resold Lines ("DRL") in Rhode Island.



As for metric performance, we find that VZ-RI's performance from March through August 2001 was good. From March through August 2001, VZ-RI met 79% to 88% of Resale PAP metrics which had activity. In comparison, of the Resale PAP metrics which had activity and were not under development or qualified for the small sample exemption, VZ-MA met 83% to 94% from March through July 2000.<sup>688</sup> We find that during the period March through August 2001, VZ-RI's performance was comparable to VZ-MA's performance from March through July 2001.<sup>689</sup>

As a whole, VZ-RI's performance in Resale is good, and only in a few instances was VZ-RI's performance unsatisfactory or questionable for a majority of the six months under review from March to August 2001. In the area of ordering metrics, for OR-5-03 (% Flow Through-Achieved-POTS – (Specials)), we note that this metric was not being achieved in Massachusetts or New York at the time of their respective § 271 applications and was met for the first time in New York this summer. Also, we recognize that VZ-RI has taken various steps to improve the flow through of CLEC orders as demonstrated by the satisfactory results of August 2001.<sup>690</sup> In addition, to encourage VZ-RI to consistently meet this metric, the Rhode Island PAP increased the potential dollars-at-risk for UNE Flow-Through if VZ-RI fails to meet this metric.<sup>691</sup>

In the area of provisioning metrics, VZ-RI had difficulty satisfying PR-3-08 (% completed within 5 days (1-5 lines-No Dispatch)-POTS), and PR-3-09 (% completed within 5 days (1-5 lines-Dispatch)-POTS), we acknowledge VZ-RI's explanation that the

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<sup>688</sup> Compare Verizon-Rhode Island 271 Checklist Declaration, Attachment 5, p. 13 to VZ-RI's Response to Record Request No. 2 (VZ-MA's PAP metrics).

<sup>689</sup> Id.

<sup>690</sup> Tr. 10/11/01, p. 30.

<sup>691</sup> RIPUC Order No. 16809 (issued December 3, 2001), p. 40.

disparity between retail and wholesale results are affected by the types of orders made.<sup>692</sup> VZ-RI explained that while retail orders are typically straightforward residential orders, CLEC orders tend to be more complex and time-consuming.<sup>693</sup> As for PR-4-02 (Average Delay Days-Total-POTS), VZ-RI's questionable performance here presumably relates to small size of the sample.

Based on the totality of the circumstances, VZ-RI's performance in PAP metrics for Resale is generally good and is comparable to VZ-MA's performance during the period in 2000 prior to its § 271 filing in Massachusetts. We find that VZ-RI is providing telecommunications services for resale without discriminatory conditions and provides non-discriminatory service to Resellers to support the resale of VZ-RI's retail telecommunications services in compliance with Checklist Item 14. Accordingly, we recommend the FCC find that VZ-RI has complied with the requirements of this checklist item.

## **VI. PUBLIC INTEREST ANALYSIS**

### **A. Applicable Law**

In addition to determining whether VZ-RI has satisfied the 14-point competitive checklist of the Act, the FCC must make an independent determination as to whether VZ-RI's "requested authorization is consistent with the public interest, convenience, and necessity."<sup>694</sup>

The FCC has previously indicated that in reaching its "overriding goal" of ensuring that the "market is open to competition," it will look at whether there are any "unusual circumstances that would make entry contrary to the public interest under the

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<sup>692</sup> Tr. 10/11/01, pp. 31-32.

<sup>693</sup> Id.

particular circumstances of this application”...and “whether [the FCC] has sufficient assurance that the market will remain open after grant of this application.”<sup>695</sup>

### **B. Party Comments**

No party provided any comments during the course of the Rhode Island 271 proceeding directly related to whether or not approval of VZ-RI’s application to provide interLATA long distance service in Rhode Island is in the public interest. WorldCom did allege that the market was not open to competition based on the level of competition currently existing in Rhode Island and Massachusetts.<sup>696</sup> However, VZ-RI pointed out that the RIDPUC witness testified that the local telecommunications market in Rhode Island is “irreversibly open to competition in the manner that the Commission should recommend 271 approval.”<sup>697</sup>

### **C. RIPUC Recommendation**

We believe that approval of VZ-RI’s 271 application by the FCC is in the public interest. VZ-RI has demonstrated that the local exchange market is irreversibly open to local competition. Specifically, we have found that VZ-RI has met the requirements of each of the 14 competitive checklist items. Furthermore, in RIPUC Docket No. 3256, we ordered VZ-RI to adopt a Performance Assurance Plan modeled after the Performance Assurance Plan adopted by the Massachusetts DTE, but modified to reflect the specific concerns of CLECs doing business in Rhode Island. We believe that the Rhode Island PAP provides sufficient financial incentive to prevent VZ-RI from backsliding once it gains § 271 approval from the FCC.

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<sup>694</sup> 47 U.S.C. § 271(d)(3)(C).

<sup>695</sup> Massachusetts Order, ¶ 233.

<sup>696</sup> Post-Hearing Comments of WorldCom, p. 9 (emphasis added).

<sup>697</sup> Verizon’s Post-Hearing Brief, p. 2, quoting Tr. 10/15/01, p. 100.

## **1. Competition in the Local Exchange Market**

We note that as of July 2001, VZ-RI had approximately 46,710 local interconnection trunks in place with 15 CLECs. In addition, through September 2001, VZ-RI had provided 23 CLECs with 214 physical collocation arrangements in 26 central offices. In addition, Cox makes local telephone service available to at least 75% of the homes in Rhode Island.<sup>698</sup> We also note that by the end of September 2001, CLECs in Rhode Island were serving both commercial and residential customers.<sup>699</sup>

We note that in addition to facilities-based competition, CLECs are also providing service through resale and UNEs. As of July 2001, VZ-RI was providing approximately 25,500 stand-alone UNE loops and approximately 3,800 loops as part of UNE-P.<sup>700</sup>

With regard to WorldCom's allegation that the market is not open in Rhode Island or Massachusetts because of the level of actual competition, it is not the RIPUC's place to comment on the levels of competition in Massachusetts. The fact is, the FCC has already found that the Massachusetts market is open to competition.<sup>701</sup> Furthermore, with regard to Rhode Island, the FCC has also indicated that, "[g]iven an affirmative showing that a market is open and the competitive checklist has been satisfied, low customer volumes in and of themselves do not undermine that showing."<sup>702</sup>

Finally, we emphasize that VZ-RI's two major competitors in Rhode Island, Cox and Conversent, either did not file comments or withdrew their comments in this proceeding because they have been able to work out their respective issues with VZ-RI. Neither of these CLECs contended that the market is not open to competition in Rhode

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<sup>698</sup> Verizon's Post-Hearing Brief, pp. 13, 20-21.

<sup>699</sup> Verizon RI 271 Filing – Checklist Declaration, ¶ 74.

<sup>700</sup> *Id.* at 44.

<sup>701</sup> See Massachusetts Order, ¶¶ 2, 253.

<sup>702</sup> *Id.* at ¶235.

Island, nor in the end, did they challenge VZ-RI's compliance with any of the 14-point competitive checklist items. We believe that the good faith VZ-RI has shown through its business dealings with Cox and Conversent, both prior to and during these proceedings has benefited the residential and commercial customers of Rhode Island.

## **2. Assurance of Future Compliance**

In RIPUC Docket No. 3195, we established extensive performance reporting requirements nearly identical to the C2C Performance Guidelines adopted in New York and Massachusetts. These C2C Performance Guidelines will allow us to monitor all aspects of VZ-RI's wholesale performance to ensure that CLECs are afforded parity with VZ-RI's retail operations and are provided with a meaningful opportunity to compete in Rhode Island.

In Docket No. 3256, we adopted a self-executing Rhode Island PAP that is modeled on the plans in effect in New York and Massachusetts. The Rhode Island PAP places 39% of VZ-RI's annual net return at risk.<sup>703</sup> This amount at risk will provide VZ-RI with a strong financial incentive to maintain the quality of its wholesale service.

## **3. Conclusion**

In our opinion, VZ-RI's entry into the long-distance market in Rhode Island will more than likely benefit Rhode Island consumers through rate reductions. The local telecommunications market in Rhode Island is open for competition, as evidenced by the high percentage of CLEC lines in Rhode Island compared to other states at the time of their Section 271 approval. The local market will remain open because of the Rhode Island PAP, the C2C Performance Guidelines and our continuing scrutiny. Cox and

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<sup>703</sup> Any penalties paid by VZ-RI under the Rhode Island PAP will not be recoverable from ratepayers through its Price Regulation Successor Plan, or otherwise.

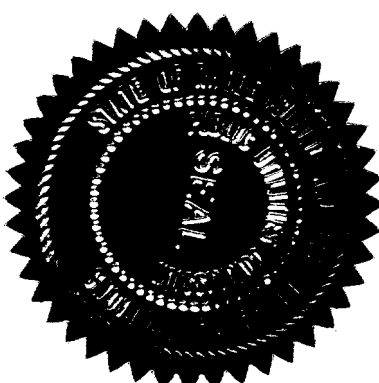
Conversent have led the charge into the local telecommunications market. If other CLECs do not enter the market, it is by their own choice and not due to some barrier erected by VZ-RI. Accordingly, we recommend that the FCC allow VZ-RI to enter the long-distance market and bring the benefits of additional competition to Rhode Island consumers.

Albeit this recommendation has been issued with an order number, it is not the intention of the RIPUC to treat it as an order. The order number is included exclusively for record keeping purposes.

(16815)

EFFECTIVE AT WARWICK, RHODE ISLAND, ON NOVEMBER 15, 2001,  
PURSUANT TO OPEN MEETING DECISION. WRITTEN REPORT AND  
RECOMMENDATION ISSUED ON DECEMBER 14, 2001.

RHODE ISLAND  
PUBLIC UTILITIES COMMISSION



*Elia Germani*

Elia Germani, Chairman

*Kate F. Racine*

Kate F. Racine, Commissioner

*Brenda K. Gaynor*

Brenda K. Gaynor, Commissioner